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15 IN THE UNITED STATES DISTRICT COURT
16 FOR THE CENTRAL DISTRICT OF CALIFORNIA
17 SOUTHERN DIVISION

18 MICHAEL RUHE and VICENTE
CATALA,) Civil Action No.
19 Plaintiffs,) SACV 11-00734 CJC (MLGx)
20 v.)
21 MASIMO CORPORATION, and DOES 1) **NOTICE OF MASIMO**
to 100, inclusive,) **CORPORATION'S EX**
22 Defendants.) **PARTE APPLICATION TO**
) **CONTINUE HEARING ON**
) **MOTION TO CONFIRM**
) **ARBITRATION AWARD**

24 Honorable Cormac J. Carney
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1 PLEASE TAKE NOTICE that Defendant Masimo Corporation
2 ("Masimo") hereby submits this *Ex Parte* Application for the Court to issue an
3 Order that continues Plaintiffs' Motion to Confirm Arbitration Award (Dkt.
4 Nos. 29-31) so that it may be heard on March 31, 2014, along with Masimo's
5 soon-to-be-filed motion to vacate that same Arbitration Award.

6 Masimo seeks this relief by way of an *ex parte* application because
7 Masimo would be irreparably prejudiced if its request were submitted according
8 to a regularly noticed motion. Plaintiffs' Motion is currently scheduled to be
9 heard before this Court could hear a regularly noticed motion for continuance.
10 Masimo would also suffer additional irreparable prejudice if the Court were to
11 confirm the arbitration award before considering Masimo's motion to vacate,
12 which could also not be heard before Plaintiffs' Motion. Additionally,
13 Masimo's lead trial counsel has a conflict with the noticed hearing date of
14 March 3, 2014, for Plaintiffs' Motion. Therefore, Masimo respectfully requests
15 that Plaintiffs' Motion to Confirm the Arbitration Award be heard on March 31,
16 2014, along with Masimo's motion to vacate that same award.

17 Pursuant to L.R. 7-19.1, Masimo sought to resolve the issues addressed in
18 this Application and informed Plaintiffs of its intent to file the motion.
19 Declaration of Mark T. Palin ¶ 3. The parties reached no agreement on any
20 matters contained in the Application.

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Masimo makes this Application for the reasons set forth in, and supported by, the accompanying Memorandum of Points and Authorities, the Declarations of Joseph R. Re and Mark T. Palin, and the [Proposed] Order.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: February 3, 2014

By: /s/ Joseph R. Re

Joseph R. Re
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Joseph S. Cianfrani
Payson J. LeMeilleur

**Attorneys for Defendant,
MASIMO CORPORATION**

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